

REMARKS

This responds to the Office Action mailed on December 2, 2008.

Claims 1, 8, 15, 19 are amended, no claims are canceled, and no claims are added; as a result, claims 1-6, 8-11 and 13-26 are now pending in this application.

Claim Objections

Claims 8-11 and 13-14 were objected to due to informalities. Claim 8 has been amended. Claims 9-11 and 13-14 depend from claim 8. Applicant respectfully requests that the objection be removed in light of the amendment.

§102 Rejection of the Claims

Claims 19 and 23 were rejected under 35 U.S.C. §102(b) for anticipation by Peers-Travarton (U.S. Patent No. 4,667,686).

Claim 19

Currently amended independent claim 19 recites, among other things, “providing a lead assembly including a lead body extending from a distal end to a proximal end; a conductor disposed within the lead body; a piston movably disposed within the lead body; a fixation helix supported by, and protruding radially around, the piston at a first portion of the fixation helix, the first portion of the fixation helix forming a drive mechanism including one or more helical drive grooves, the helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are recessed; a housing including a guide extending from an inner surface thereof; rotating the fixation helix; and longitudinally driving the fixation helix with the drive mechanism, including moving the first portion of the fixation helix directly along the guide.” The Peers-Travarton reference does not disclose such elements.

The Peers-Travarton reference describes a helical ribbon (see column 3, line 18) acting as a driver coil. The helical ribbon contacts a shaft (see column 3, line 59) which carries the helical pin or fixation means (see column 3, line 61). The reference does not describe “helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation

helix are recessed.” The grooves discussed in Peers-Travartan are located at the distal end of a tubular sleeve (see column 3, line 35 and FIG. 2) and not associated with a piston.

Claims 15-16, 19, 23 and 26 were rejected under 35 U.S.C. §102(b) for anticipation by Vachon (U.S. Patent No. 5,531,780).

Claim 15

Currently amended independent claim 15 recites, among other things, “an active fixation helix supported by the piston at a first portion of the fixation helix, the first portion of the fixation helix supported by the piston forming a drive mechanism that longitudinally advances and retracts the fixation helix, the drive mechanism including one or more helical drive grooves, the helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are recessed; and a housing including a guide therein, the guide extending from an inner surface of the housing and adapted to interact directly with the first portion of the fixation helix.” The Vachon reference does not disclose such elements.

As stated in previous actions, the Examiner has not pointed out in any specificity why the Vachon reference anticipates the claims of the present application. Applicant asserts that the Vachon reference does not describe every element of the claims in question.

The Vachon reference describes therapeutic delivery methods for fixation means wrapped around a driver. The reference does not describe “helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are recessed.” Further, Vachon does not disclose a “a housing including a guide therein, the guide extending from an inner surface of the housing and adapted to interact directly with the first portion of the fixation helix.”

Because not all elements of the present claims are found in the reference, it is respectfully requested that the novelty rejection be removed. All claims depending from independent claims 15 and 19 are believed to be in similarly allowable condition.

§103 Rejection of the Claims

Claims 1-6, 8-11, 13, 20-22 and 24-26 were rejected under 35 U.S.C. §103(a) as being unpatentable over Peers-Travarton (U.S. Patent No. 4,667,686) in view of Bisping (U.S. Patent No. 4,282,885) or Fahlstrom et al. (U.S. Patent No. 4,913,147).

Claims 1-6, 8-11, 13, 14, 17, 18, 20-22 and 26 were rejected under 35 U.S.C. §103(a) as being unpatentable over Vachon in view of Bisping (U.S. Patent No. 4,282,885) or Fahlstrom et al. (U.S. Patent No. 4,913,147).

Claim 1

Currently amended independent claim 1 recites, among other things, “a fixation helix supported by the piston at a first portion of the fixation helix, the first portion of the fixation helix supported by the piston forming a drive mechanism including one or more helical drive grooves, the helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are recessed; and a housing portion positioned near the distal end of the lead body, the housing portion including a guide disposed on an inner surface thereof in which the first portion of the fixation helix rides along during at least one of advancing or retracting of the fixation helix relative to the lead body.” The combination of references cited does not describe all elements of the claim.

Neither the Peers-Travarton reference, nor the Vachon reference describe “helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are recessed”, as admitted by the Examiner. The Examiner states that the Bisping or Fahlstrom reference discloses “helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are recessed.” Such an element is not found in either Bisping or Fahlstrom. The Examiner has not specified where in either of the references such an element is found. Assuming the Examiner is referring to FIGS. 6-7 in Bisping, the helical groove 26 is not positioned on an outer surface of a piston. Rather, the groove is part of a protective core that is positioned distally on the fixation helix and does not serve as any type of driving mechanism (see column 6, lines 23-25).

In Fahlstrom, Applicant is assuming the Examiner is referring to the embodiment in FIGS. 20-21. In FIGS. 20 and 21, the piston 33 appears to include a space on its outer surface.

The space is not labeled on the figures, other than in FIG. 21 as a “hollow member” 32 (see column 7, line 12-12). It is not identified what occupies any of the space within the hollow member 32. Regardless, the space or shape is not helical and does not form “helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are recessed.”

Claim 8

Currently amended independent claim 8 recites, among other things, “a housing positioned near the distal end of the lead body, the housing including a guide disposed on an inner surface thereof; a conductor disposed within the lead body; a piston movably disposed within the housing; and a fixation helix coupled with, and protruding radially around, the piston along a first longitudinal portion of the fixation helix, the first portion of the fixation helix coupled with the piston forming helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are recessed; wherein the fixation helix and piston form a drive mechanism that rides along the guide allowing at least one of advancing or retracting of the fixation helix relative to the lead body.” The combination of references cited does not describe all elements of the claim. The combination of references cited does not describe all elements of the claim.

Neither the Peers-Travartan reference, nor the Vachon reference describe “helical drive grooves positioned on an outer surface of the piston in which successive turns of the fixation helix are recessed”, as admitted by the Examiner. As discussed above in regard to claim 1, neither the Bisping reference nor the Fahlstrom reference discloses such an element. The arguments discussed above are herein incorporated by reference.

Claims 2-6, 9-11, 13, 20-22 and 24-26 depend from independent claims 1, 8, 15 and 19. As discussed above, the references cited do not disclose all elements of the independent claims. Applicant respectfully requests removal of the rejection.

Claims 14-16 were rejected under 35 U.S.C. §103(a) as being unpatentable over modified Peers-Travarton (U.S. Patent No. 4,667,686) discussed above for claim 14 or over Peer-Travation for claims 15 and 16.

Claims 14-16 depend from Claims 8 and 15. As discussed above, the Peers-Travarton reference does not disclose all elements of the independent claims. Applicant respectfully requests withdrawal of this rejection on the grounds discussed above, because neither the Peers-Travarton reference, nor the accompanying reasoning in the Office Action appear to cure the deficiencies noted above.

Claims 17 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Peers-Travarton (U.S. Patent No. 4,667,686) in view of Bisping (U.S. Patent No. 4,282,885) or Fahlstrom et al. (U.S. Patent No. 4,913,147).

Claims 17-18 depend from Claim 15. As discussed above, the Peers-Travarton reference does not disclose all elements of the independent claims. Applicant respectfully requests withdrawal of this rejection on the grounds discussed above, because neither the Peers-Travarton reference, nor the accompanying reasoning in the Office Action appear to cure the deficiencies noted above.

Claims 9 and 10 were rejected under 35 U.S.C. §103(a) as being unpatentable over the modified Vachon (U.S. Patent No. 5,531,780) as discussed above.

Claims 9-10 depend from Claim 8. As discussed above, the Vachon reference does not disclose all elements of the independent claim. Applicant respectfully requests withdrawal of this rejection on the grounds discussed above, because neither the Vachon reference, nor the accompanying reasoning in the Office Action appear to cure the deficiencies noted above.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (612) 373-6965 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date

APRIL 2, 2009

By

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 2nd day of April, 2009.

Kate Gannon

Name

Signature